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Statement of Sen. Charles Grassley
Hearing, “Selling to Seniors: The Need for Accountability and Oversight of
Marketing and Sales by Medicare Private Plans (Part 2)
Wednesday, February 13, 2008

Good morning. Last week we heard testimony from a range of witnesses about continuing problems with marketing and sales of Medicare Advantage plans. Mr. Weems, I appreciate your joining us this morning. I hope you can shed light on CMS’s role in setting and enforcing standards for marketing and sales activities of Medicare Advantage and prescription drug plans.

At last week’s hearing, we heard some shocking stories about sales of Medicare Advantage. Our beneficiary witness, Mr. Harper, told us that he had never signed up for Medicare Advantage. And yet an agent had enrolled him in a plan anyway. It took him months to resolve the problem. And he never got back the money the plan took out of his Social Security check.

In an e-mail to my staff, the plan claims that because Mr. Harper disenrolled, he technically was never a member of the plan. If that’s true, where did his money go? Why wasn’t it refunded?

Last week, we also heard about insurance agents telling seniors they were from Medicare. We heard that the agents said that private fee-for-service plans were the same as Medigap.

And we heard that cold calling often led to seniors agreeing to meet with an agent just to stop the daily phone calls. Some of these are already against the rules. But they are still happening.

Some witnesses suggested that the problem was with insurance agents ignoring their training and not following the rules. Some thought the states would do a better job with enforcement. They also argued that state authority needed to be strengthened. They pointed out that the states oversee enforcement of Medigap insurance. They said that works well.

Medigap insurance is not part of a federal entitlement program. It is paid for with no federal dollars. I have a problem with states having too much oversight of a federal program.

But the agents are regulated by the states. So it is essential that the states can truly hold the agents accountable. And it concerns me that CMS has allowed some obvious problems to continue.

For example, CMS has allowed agents representing Medicare Advantage and Part D plans to cold-call beneficiaries unless they are on the national do-not-call list.

By cold-calling, I mean calling a beneficiary without that person expressing interest in the product ahead of time.

This strikes me as a glaring example of a practice with great potential for abuse. We have heard that agents sometimes repeatedly call the same senior, until she gives in and invites the agent to come to her home.

In some areas, CMS has stronger standards than many states do. In Medigap, many states allow door-to-door sales. CMS does not allow door-to-door sales for Medicare Advantage and prescription drug plans.

At the same time, over the past eight months CMS has strengthened its enforcement activities. Last July, it placed a moratorium on the marketing, sales and enrollment of seven private fee-for-service plans until they improved their practices.

In December, it suspended sales and enrollment for two plans, one due to overly aggressive sales tactics. The call letter for plan year 2009 includes several ideas to improve sales and marketing practices of MA plans.

One of them is to require plans to inform states as to which agents are selling on behalf of that plan in the state. Another is to bar an agent from selling a Medigap plan at the same time as a Medicare Advantage plan.

I hope that the CMS rules can curtail egregious sales tactics. But I am unclear how CMS is working with the states to ensure that plans themselves crack down on bad agents.

So I welcome CMS Administrator Weems to the Finance Committee. I look forward to what he has to tell us about CMS's efforts to make sure that the marketing and sales of Medicare Advantage and Part D plans are consistent with CMS rules.

I also look forward to understanding how CMS views its efforts to coordinate with states and where Mr. Weems thinks CMS needs more help.